THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 24696 of 2002

O r d e r:

The petitioner is working as Junior Assistant with the respondents-APSRTC. On 26.04.1993, while traveling from Hyderabad to Tenali, she met with an accident, in which she suffered permanent disability. Because of the accident, the petitioner was bed-ridden for a long time. She having exhausted all her leave, also had taken leave on loss of pay. As the petitioner was on loss of pay, the respondents did not grant her two annual increments due on 01.11.1993 and 01.11.1994. After reporting for duty, the petitioner is said to have made representations for grant of annual increments, but the petitioner was informed by the Personnel Officer vide proceedings dated 15.09.1998 that her request for grant of annual increments without postponement has not been agreed to by the competent authority. Aggrieved thereby, the petitioner filed appeal dated 22.03.2002 before the Vice-Chairman and Managing Director. The Deputy Chief Personnel Manager, vide orders dated 17.05.2002, informed the petitioner that her request to count the leave without pay period from 27.04.1993 to 23.02.1995 has been examined in detail and not agreed to by the competent authority. Assailing this order, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner could not attend the office from 27.04.1993 to 23.02.1995 and had to go on leave on loss of pay, as she met with an accident, in which se suffered permanent disability. Having regard to the proviso appended to Regulation 13(2) of APSRTC Employees (Pay and

Allowances) Regulations, 1964, which empowers the competent authority, if it is satisfied that the extraordinary leave or leave without pay, was taken on account of illness or any other cause beyond the employees control, he may direct such period to count for increments under the said clause, the learned counsel submitted that the competent authority committed an error in not counting the leave without pay period of the petitioner from 27.04.1993 to 22.02.1995 and not granting her two annual increments. He thus prayed that the impugned order be set aside and the writ petition be allowed.

The respondents filed counter. The learned Standing Counsel for the respondents-APSRTC reiterating the counter averments submitted that the petitioner met with an accident while on her private travel and not during the course of employment with the respondents. As the petitioner was on leave on loss of pay for a period of 284 days from 26.034.2003 to 21.02.1995, her annual increments due on 01.11.1993 and 01.11.1994 were postponed and drawn on 01.08.1995. He submitted that the power vested in the competent authority vide the proviso appended to

Regulation 13(2) of the APSRTC Employees (Pay and Allowances) Regulations, 1964, whether or not to count the period of leave on loss of pay on account of illness, for grant of annual increments, is discretionary and subject to the satisfaction of the competent authority. He submitted that since the respondents-APSRTC paid an amount of Rs. 2,11,209/- towards compensation, awarded by the Motor Accidents Claims Tribunal, Rs.65,000/- towards medical expenditure and Rs.2,000/- from Staff Fund Benefit Fund, and having regard to the fact that she having suffered disability is being paid an amount of Rs.300/- per month, which is being paid to disabled persons, the competent authority, had refused to exercise discretion vested in it

under the proviso appended to

Regulation 13(2), in favour of the petitioner, as it would amount to granting multiple benefits for a single cause, and discriminate other similarly persons, who were denied such benefit, and no exception can be taken thereto. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner, admittedly, met with an accident, in which she suffered permanent disability while on her private travel and not during the course of her employment with the respondents-APSRTC. Because of the accident, the petitioner was bedridden, and as such, she could not go to office. The petitioner, having exhausted all her leave, took leave on loss of pay from 27.04.1993 to 22.02.1995. As the petitioner was on leave on loss of pay for a period of 284 days, the respondents postponed the grant of annual increments due on 01.11.1993 and 01.11.1994. The annual increments were drawn on 01.08.1995. As the increments were not granted, the petitioner made representation to the competent authority, for grant of annual increments by reckoning the leave on loss of pay, for grant of increments, the same was rejected, and even the appellate authority confirmed the same.

Though the petitioner contends that having regard to the power vested in the competent authority under the proviso appended to Regulation 13(2) of APSRTC Employees (Pay and Allowances) Regulations, 1964, the competent authority ought to have reckoned the period of leave on loss of pay, for granting annual increments, the fact remains, the grant of annual increments by reckoning the period of leave on loss of pay for the illness, is discretionary and is subject to the

satisfaction of the competent authority. No doubt, on account of the accident, in which she sustained permanent disability, the petitioner had taken leave on loss of pay, but that by itself is no reason for the petitioner to seek grant of annual increments by reckoning the period of leave on loss of pay, and more so when the accident took place on her private travel. This apart, it is the specific case of the respondents that on account of the permanent disability sustained by the petitioner, she had made a claim before the Motor Accidents Claims Tribunal against the respondents-APSRTC, and as ordered by the Tribunal, they have paid an amount of Rs. 2,11,209/- towards compensation, Rs.65,000/- towards medical expenditure and Rs.2,000/- was paid from the Staff Benefit Fund. Apart from the said amounts, the petitioner having suffered permanent disability is being paid an amount of Rs.300/- per month, which is being paid to disabled persons. Having regard to the amounts received by the petitioner, the competent authority, while exercising its discretion in terms of the proviso appended to Regulation 13(2) of the APSRTC Employees (Pay and Allowance) Regulations, 1964 felt that the petitioner cannot be granted the increments by reckoning the period of leave on loss of pay, for it would amount to extending multiple benefits for a single cause. This apart, it is the specific case of the respondents-APSRTC, that in similarly situated cases, they have not granted the benefit of annual increments by reckoning the period of leave on loss of pay, and as such, the petitioner can be no exception. The power vested in the competent authority under the proviso appended to Regulation 13(2) being discretionary, and having regard to the benefits extended to the petitioner, as stated above, it cannot be said that the competent authority failed to exercise its discretion in favour of the petitioner by not granting annual increments by reckoning the period of leave on

loss of pay, warranting interference by this Court with the impugned orders.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 31st August, 2006.
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